

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-757

November 28, 2001

AMATO'S SANDWICH SHOPS, INC.
Request for Waiver of the Opt-Out Fee
Requirement of Chapter 301

ORDER GRANTING
WAIVER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

On October 30, 2001, Amato's Sandwich Shop, Inc. filed a request for a waiver of the opt-out fee provisions of Chapter 301 (Section 2(c)(2)). Amato's, a customer in the Central Maine Power Company (CMP) service territory, had been receiving its electricity supply from a competitive electricity provider (CEP) under a contract that ended in May, 2001. That CEP would not continue to provide service after the contract ended. When the waiver request was filed, Amato's was negotiating with CEPs and expected to sign a contract shortly. Because Amato's had dropped to standard offer service after its initial CEP contract ended, the opt-out fee provisions would be triggered when it begins taking service under a new contract. To avoid that, Amato's requests a one-time waiver of the opt-out fee. Amato's notes that the delay between the time the initial contract ended and when it began negotiating with CEPs was due to the fact it did not know the opt-out fee could be waived until a supplier so informed it. I interpret this to mean that without the potential for a waiver, Amato's would simply have remained on standard offer service.

In its recent Order adopting changes to the opt-out fee provisions of Chapter 301, the Commission stated that waivers would be appropriate if a customer's default to standard offer service was beyond the customer's control or otherwise not related to gaming the standard offer service. *Order Adopting Rule and Statement of Factual and Policy Basis*, Docket No. 2000-904 at 4 (Jan. 24, 2001). Amato's default to standard offer service appears to be unrelated to gaming, and simply occurred because Amato's had not enrolled with a new CEP before the initial contract ended. After that, Amato's began shopping for a new CEP only after it learned of the potential for the opt-out fee to be waived.

Section 10 of Chapter 301 allows the Director of Technical Analysis to grant waivers that are not inconsistent with the purposes of the rule. I find that granting this request that the opt-out fee be waived is not inconsistent with the purpose of this provision of the rule. Therefore, Amato's request for a waiver of the opt-out fee is hereby granted, contingent upon service with a new CEP beginning no later than Amato's second meter read date following the date of this Order.

BY ORDER OF THE DIRECTOR OF TECHNICAL ANALYSIS

Faith Huntington
Acting Director